

Legislative Quality Assurance Toolbox in the context of the Czech Republic

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Abstract

The aim of the rigorosum thesis is to describe and evaluate the tools used for the control of legislation quality (“legislative toolbox”) at both the parliamentary and pre-parliamentary stage of the legislative process. The main focus is on the situation in the Czech Republic, although the tools used in other jurisdictions are introduced in order to encourage potential discussion regarding an expansion of the Czech legislative toolbox. The toolbox is shown on the background of the principles of proper law making – for example a sceptic lawmaker approach employed with the aim of securing a stable legal environment. This method helps us better understand the potential conflicts between certain legislative principles; one example can be a clash between the legislative needs and the quality control tool when, for example, a required legislative solution might be slowed down by repeated debates within the Legislative Council due to theoretical marginalities. This example indicates a conflict between the principle of sound legislation and the need for reasonable speed of the legislative process. The author also considers the influence of EU law, which is not usually taken into account, despite the European Union law substantially affects law making in the Member states through its own law making or the direct effect. Many ideas are taken from MacCormick’s theory of shared principles between Member states. Another ideological source of Helen Xanthaki. The thesis presents a chronological process how a bill is drafted, approved, passed, amended and, finally, how it becomes a law. It shows the bottlenecks and moments when bills are changed most frequently. One of the aims of the thesis is to show claimed in real world – examples are picked from current proposals or from Hansard recordings. The main purpose of the thesis is to provide a detailed outline and analysis of the recent Czech legislative procedure and to propose ways of its improvement.

Keywords: legislative quality, legislative process, Legislative Council.